

**Federal Communications Commission  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
<b>Developing a Unified Intercarrier</b>	)	<b>CC Docket No. 01-92</b>
<b>Compensation Regime</b>	)	

**REPLY COMMENTS  
OF THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN**

The Public Service Commission of Wisconsin (PSCW) respectfully submits these reply comments in response to the Federal Communications Commission's (FCC's) Further Notice of Proposed Rulemaking (FNPRM) released March 3, 2005, concerning the development of a unified intercarrier compensation (ICC) regime. The PSCW filed initial comments on May 23, 2005, recommending the following seven core principles for use in review and evaluation of ICC reform proposals:

1. Rely on rate uniformity to avoid arbitrage.
2. Maintain technological and competitive neutrality by requiring compensation for exchange of telecommunications traffic regardless of type of provider (wireline, wireless, cable, VoIP, etc.).
3. Encourage maintenance and use of the Public Switched Telephone Network (PSTN) infrastructure without discouraging the development and use of alternative network infrastructures.
4. Avoid sudden and dramatic changes in wholesale and retail rates (i.e. rate shock).
5. Promote universal service, especially in rural and high cost areas.
6. Provide for timely cost recovery through a balance of wholesale and retail rates. Avoid cost over- or under-recovery and windfalls.
7. Promote jurisdictional cooperation between the FCC and state commissions to implement a national policy.

The PSCW recognizes the need for ICC reform and the importance of a coordinated federal and state reform process. Without ICC reform, the PSTN will

become further underutilized, with associated increasing average costs, thus posing a threat to universal service. Consequently, it is important that the FCC continue its investigation and move toward implementation of ICC reforms. However, the various plans submitted to date continue to reflect a polarized industry. There is no complete ICC reform package on the table that can be implemented without further work to avoid introducing new problems to replace old ones.

The National Association of Regulatory Utility Commissioners (NARUC) is to be commended for taking a leadership role at this critical time for the industry. NARUC's Version 7 ICC Reform Plan has been submitted as a framework for FCC action due to the lack of an industry consensus on how to reasonably recraft the existing ICC and universal service fund (USF) mechanisms. This lack of consensus has placed a tremendous amount of responsibility and burden upon the NARUC Task Force.

The PSCW continues to work through NARUC's ICC Task Force (ICTF) to develop a reasonably balanced approach to ICC reform that better serves the public interest. The PSCW is aware that at least one further NARUC ICTF workshop is planned in Austin, Texas on July 22 & 23, 2005, and that more may need to follow. Ultimately NARUC may issue a revision to its Version 7 ICC Reform Plan. Further, the industry may also work to develop revised plans that present a more broadly based consensus on the necessary reforms. The PSCW believes the FCC should continue to encourage the presentation of new and consolidated approaches that achieve consensus and meet the core principles set forth above.

The following brief comments describe some of the PSCW's ongoing concerns, which are consistent with the PSCW's previously filed principles, that need to be

addressed in any ICC reform package. Organized by subject, these outstanding concerns were not adequately addressed by other parties in comments and are currently, and appropriately, under continued discussion in the NARUC's ICTF process.

#### Implement a National Policy Through Jurisdictional Cooperation

- The FCC cannot and should not preempt state regulation. Regulatory certainty for the industry is a valuable goal within the structure of a dual jurisdictional market. However, it is unnecessary and risky to pursue preemption as the means to achieve that goal. In the case of ICC reform, a cooperative approach assures an overall certainty in the operating legal framework because approaches to ICC reform that respect jurisdictional interests and state authority can avert the lengthy market disruptions caused by the litigation of jurisdictional matters.
- The PSCW would welcome an optional national plan that provides a reasonably balanced solution to reform ICC, such as NARUC's Version 7.
- Implementing intrastate rate increases that may result from a national plan will require state commissions to interpret and apply their respective state statutes and administrative rules, and to harmonize state law with applicable federal law. In some cases, contested case, trial-type proceedings may be required before intrastate rates may be increased. However, regulatory actions need to be fast enough to keep pace with marketplace and technological change.
- The FCC should provide reasonable national objectives, such as target or benchmark ICC and local rates, with sufficient lead time to permit states to implement those objectives, given that changes in state law pertaining to rate setting authority and state USF budgets may be necessary. The mechanism in NARUC Version 7 Plan that provides state-specific universal service funding may prove to be a useful interim mechanism, but ideally, state USF funds should be set up under state authority.
- Rate rebalancing or revenue neutrality proposals will have to comply with state statutes; such as Wisconsin's cross-subsidy prohibition statute, Wis. Stat. § 196.204.

#### Revenue Neutrality

- Proposals for revenue neutrality ignore revenues generated from non-regulated services such as broadband, video and VoIP. Non-regulated services should be assigned appropriate cost recovery responsibility. The overwhelming burden for cost recovery should not be placed on traditional telephone services.

- Nor should one presume that decreases in access rates will result in decreases in consumer long distance rates to offset local rate increases. Instead of increasing subscriber line charges (SLCs) to exactly equal access revenue decreases, SLC increases could be limited to the net revenue loss based on access revenue decreases offset by access cost decreases. Where incumbent local exchange carriers sell services in packages of long distance and local service, regulators could provide for an immediate offset.

#### Sustainability of the USF

- ICC reform should convert implicit subsidies, that are currently collected in access charges, into explicit USF support to meet the universal service requirements of U.S.C. § 254 of the Telecommunications Act of 1996 (TA96).
- The PSCW shares the concern about the current size and growth of the federal USF, and the additional pressures that will come from ICC Reform. However, the PSCW is equally concerned that ICC Reform will result in unrecovered costs for Wisconsin utilities and unfunded mandates for the state USF. Each plan needs to be carefully evaluated in terms of its impact on federal and state USFs. Sustainability of the USFs is critical.
- The PSCW agrees with the NARUC Version 7 Plan, the Intercarrier Compensation Forum (ICF) plan and others providing comments that the base over which universal service funds are collected should be expanded to include new technologies. For example, it is not fair, and distorts competitive markets, for broadband telephony over DSL to be subject to USF assessment while broadband telephony over cable modems is not subject to the assessment. If the FCC does not believe it has existing statutory authority to expand the base over which universal service funds are collected, then legislative changes should be pursued.

#### High Rate Assistance Credits

- In addition to federal high cost assistance mechanisms, the FCC should consider a customer high rate assistance credit similar to Wisconsin's USF program<sup>1</sup> to address and keep rates affordable.

#### Designation of Additional Eligible Telecommunications Carriers (ETCs)

- Plans that shift responsibility to provide USF support for additional ETCs to states that are authorizing them should be rejected. Those proposals would deny wireless providers a non-discriminatory opportunity to become recipients

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<sup>1</sup> Customers receive a credit on their bill if an authorized rate exceeds a certain threshold percentage (e.g. 1.5%) of median household income. See Wis. Admin. Code § PSC 160.09

of federal USF support notwithstanding their contributions into that fund. Such proposals disadvantage Midwestern and Western states that have a disproportionate number of requests from wireless providers to become ETCs by significantly burdening state rates or state USF coffers. Moreover, these proposals may violate the core principle of competitive neutrality.

#### Portability of USF Support

- Proper treatment of the portability of USF support associated with interoffice transport costs should be addressed. Comments have identified an inefficient use of universal service support with respect to interoffice transport costs.<sup>2</sup> Carriers that make use of common interoffice network resources rather than their own facilities should not receive the universal support intended to support the maintenance of those common network resources. New approaches should be considered to determine when and to what extent universal service support should be portable.
- As an interim measure, the PSCW suggests continuing the portability of all high cost loop support, but making other USF support, including any transitional support that is not designated as high cost loop support, to be non-portable.

#### Transport, Tandems

- The issues associated with transport, tandem switching, and other forms of interconnection are very complex and far reaching. Hasty action in these areas could have unintended consequences. Proposals for change should be carefully evaluated to see if the proposal corrects a known or anticipated problem, in a manner that is fair, efficient, and consistent with the public interest.
- Proposals to deregulate transport, tandem switching, and other forms of interconnection must meet appropriate state statutory criteria before such relief is granted.

#### **Conclusion**

National attention to ICC reform is necessary. Current mechanisms for ICC and USF support need to be reformed for purposes of equity, competitive neutrality, universal service protections, and economic rationale. To date, however, no presented plan will

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<sup>2</sup> See for instance Expanded Portland Group Plan, p. 23, Alliance for Rational Inter-carrier Compensation FACT Plan, p. 106, and initial comments of CenturyTel, Inc., p. 37.

accomplish these goals consistent with the PSCW's stated principles. On the other hand, NARUC is providing a valuable leadership role on ICC especially given the lack of industry consensus on a reform plan. The FCC should adopt NARUC's Version 7 Plan as a platform upon which to pursue further development and work on certain issues, such as those addressed in these comments. This framework can eventually lead to a balanced consensus plan that meets public policy goals, including the core principles set forth in the PSCW's initial comments, and the needs of the entire industry.

Dated at Madison, Wisconsin, July 19, 2005

By the Commission:

*Christy L. Zehner*

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Secretary to the Commission

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